

1. The meeting was resumed at 2:30 p.m. on 20.5.2014.
2. The following Members and the Secretary were present at the resumed meeting:

Mr Thomas T.M. Chow

Chairman

Mr Stanley Y.F. Wong

Vice-chairman

Professor S.C. Wong

Dr C.P. Lau

Mr Laurence L.J. Li

Ms Anita W.T. Ma

Dr W.K. Yau

Professor K.C. Chau

Dr Wilton W.T. Fok

Mr Ivan C.S. Fu

Mr Sunny L.K. Ho

Ms Janice W.M. Lai

Mr Dominic K.K. Lam

Mr Patrick H.T. Lau

Mr F.C. Chan

Mr Francis T.K. Ip

Mr Peter K.T. Yuen

Assistant Director (2), Home Affairs Department

Mr Frankie W.P. Chou

Deputy Director of Environmental Protection

Mr C.W. Tse

Director of Lands

Ms Bernadette H.H. Linn

Director of Planning
Mr K.K. Ling

Deliberation
[Closed Meeting]

3. The Chairman extended a welcome to Members and said that the session was to deliberate the representations and comments in respect of the draft Hoi Ha Outline Zoning Plan (OZP) No. S/NE-HH/1, the draft So Lo Pun OZP No. S/NE-SLP/1 and the draft Pak Lap OZP No. S/SK-PL/1. He recapped that four hearing sessions were held on 28.4.2014, 8.5.2014, 12.5.2014 and 19.5.2014 to hear the oral submissions from representers/commenters or their representatives in respect of the three draft OZPs. Some 100 representers and 20 commenters and/or their representatives had attended the meeting and 50 of them had made oral submissions in respect of the three OZPs.

4. The Chairman invited Members to consider the representations taking into consideration all written and oral submissions and the materials presented at all sessions of the meeting. Video recordings of all sessions of the meeting had been made available for Members' viewing prior to the deliberation session. He said that the Board should consider all the grounds and proposals of the representers/commenters and decide whether to propose amendments to the OZPs to meet/partially meet the representations. To facilitate the deliberation of the representations and comments, the general grounds of the representers/commenters would be discussed and deliberated first, followed by the specific grounds and proposals in respect of individual OZPs. Members then went through the grounds of the representers and commenters common to all three OZPs.

General Grounds Common to All Three OZPs

Designation of "Village Type Development" ("V") zones and Small House Demands

5. The Chairman said that many representations and comments were related to the Small House demand and the designation of "V" zones on the three draft OZPs. On the one hand, some representations, namely the villagers, were of the view that there was insufficient suitable land in the "V" zones for Small House development to satisfy the future demand for Small Houses; and on the other hand, the representations and comments from the green groups considered the "V" zones excessive. In support of the accuracy of the Small House demand figures, the Village Representative (VR) of Hoi Ha (R18) and a

villager of So Lo Pun (SLP-R10812/C3669) had shown to the Board and the Secretariat two name lists of male indigenous villagers of Hoi Ha and So Lo Pun at the meeting held on 28.4.2014 and 19.5.2014 respectively. According to the lists, the Small House demand forecasts for Hoi Ha and So Lo Pun were 97 and 244 respectively. The villager of So Lo Pun claimed that the estimated Small House demand forecast for So Lo Pun had included those villagers residing overseas but the actual figure would be 15 to 20% more as some villagers' names were not yet shown. The green groups opined that the "V" zones were excessive, and were based on unverified figures of Small House demand and without sufficient planning justifications. The excessive "V" zones would facilitate fraud and abuse of the Small House policy. Some representers were also of the view that the size of "V" zones should be reduced to avoid development speculation since majority of land in "V" zones were owned by private developers.

6. The Secretary said that the Small House demand forecast figures provided by R18 and SLP-R10812/ C3669 had included all male villagers of Hoi Ha Village and So Lo Pun Village, and were different from the 10-year Small House demand forecast figures provided by the respective VRs during the preparation of the draft OZPs. She said that the "V" zones on the Hoi Ha, So Lo Pun and Pak Lap OZPs would be able to meet about 68%, 50% and 100% of the Small House forecast demand for the three villages (i.e. 94, 270 and 79) respectively.

7. Members noted that the boundaries of the "V" zones were drawn up after considering the village 'environs' ('VE'), local topography, settlement pattern, Small House demand forecast, areas of ecological importance and site-specific characteristics. An incremental approach for designating "V" zones, i.e. first confining the "V" zone to the existing village settlements and the adjoining suitable land and then expanding outwards upon demonstration of genuine need for Small House developments, had been adopted in the Hoi Ha and So Lo Pun OZPs for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

8. The Vice-chairman opined that the Board should adhere to the established principle in delineating the boundaries of the "V" zones, which had been adopted for other rural OZPs. In view of the need to conserve the natural environment, an incremental

approach in designating the “V” zones to meet the Small House demands was considered appropriate for the country park enclaves (CPEs). Since there was no one living in So Lo Pun at the moment, the size of the “V” zone, which could accommodate about 134 Small House sites for a planned population of about 1,000 persons, appeared to be on the high side and should be reviewed. Members also noted that the size of the “V” zone on the Pak Lap OZP, which could meet 100% of the Small House forecast demand, was not in line with the incremental approach.

[Dr C.P. Lau and Dr. Wilton W.T. Fok returned to join the meeting at this point.]

9. A Member said that in the planning for CPEs, an appropriate balance between nature conservation and village development should be struck. While there was a need to conserve the natural environment, the Small House rights of indigenous villagers should not be deprived of. Nevertheless, the extent of development in the CPEs should be carefully considered, in particular, taking into account that So Lo Pun and Pak Lap were not served by vehicular access and some of the private land in Pak Lap was held by a private company. The Chairman remarked that PlanD had explained in the hearing that landownership could be subject to change and should not be a material planning consideration.

10. After some discussion, the Chairman summed up and said that Members’ views were that the indigenous villagers’ right to build Small Houses and the designation of “V” zones to cater for Small Houses demand were acknowledged. Nevertheless, Small House demand was only one of the factors in considering the boundaries of the “V” zones. With a view to minimising adverse impacts on the natural environment of the CPEs, based on the incremental approach, the “V” zone boundaries should first be confined to suitable land adjoining the existing village settlements. While land was still available within the “V” zones for Small House developments, should there be a genuine need to use the land outside the “V” zones for Small House developments, flexibility had been provided under the planning application system to allow planning applications for “V” zone expansion or for Small House developments in the “Agriculture” (“AGR”) and/or “Green Belt” (“GB”) zones. Each application would be considered by the Board based on its individual merits.

11. In respect of the abuse of the Small House policy alleged by some representers, Members noted that land within the “V” zones was subject to the planning intention of primarily for development of Small Houses by indigenous villagers. The respective District Lands Offices would verify the status of the Small House applicants at the stage of Small House grant applications.

Septic Tank and Soakaway System (STS) and Water Quality Impact of Small Houses

12. The Chairman said that concerns had been raised in many representations and comments on the appropriateness and effectiveness of the STS system for village developments in the CPEs and the potential adverse impacts on the water quality of the streams in the Hoi Ha, So Lo Pun and Pak Lap areas and the water-bodies in the surroundings especially Hoi Ha Wan (HHW). Their major grounds were that the STS system could only provide a minimum level of sewage treatment, and was ineffective due to inadequate maintenance and the increase in the number of septic tanks. The proposed “V” zones would lead to a huge increase in future population, but no assessment on the potential cumulative impact of the additional Small Houses had been carried out. Some representers and commenters also considered that adequate purification could not be achieved by the STS system as the underlying surface sediment in the three areas comprised porous and highly permeable deposits. There were also comments that reference should be made to the Technical Memorandum under the Water Pollution Control Ordinance to establish a statutory set back distance from a STS system to the coastal waters of HHW.

13. Members noted that the sewage disposal arrangement including the STS system of Small Houses would be considered by the concerned government departments during the processing of Small House grant applications by the Lands Department (LandsD). The design and construction of on-site STS would need to comply with the relevant standards and regulations at the Small House application stage, including Environmental Protection Department (EPD)’s Practice Note for Professional Person (ProPECC PN) 5/93 “Drainage Plans subject to Comment by the EPD”. In considering whether a site was suitable for septic tank construction for sewage treatment and disposal, a number of site-specific conditions would be taken into account including the percolation

test results, proximity of rivers/streams, depth of ground water table, topography and flooding risks.

Percolation Test

14. A Member asked whether the percolation test should be conducted by qualified professional persons. Mr C.W. Tse, Deputy Director of Environmental Protection, said that the percolation test was one of the requirements set out in ProPECC PN 5/93. LandsD would require an Authorised Person (AP) to certify that the design of a septic tank met with the relevant standards and requirements stipulated in ProPECC PN 5/93, including a percolation test. Only an AP was qualified for undertaking the certification process. LandsD, when processing the Small House grant applications, would require the submission of the certified STS proposal to the satisfaction of the concerned government departments. Members noted that APs were professional persons registered under the Buildings Ordinance and any misconduct or negligence by APs would be subject to disciplinary actions.

15. A Member said that since the requirements of ProPECC PN 5/93 were not mandatory, it was doubtful if they were strictly followed by the applicants of Small House developments. Ms Bernadette H.H. Linn, Director of Lands, said that LandsD had been adopting a conservative approach in processing Small House applications. Before approving a Small House grant, LandsD would diligently liaise with the concerned government departments to ensure that all relevant requirements, including the arrangement of sewage treatment and disposal, had been satisfactorily complied with.

16. Another Member said that the subject CPEs fell within districts where alternate underground layers of clay and sand were typically found. As the geological condition would have a bearing on the percolation test result, this Member enquired about the depth requirement of a percolation test. In response, Mr C.W. Tse said that a percolation test should be conducted before the construction of the Small House to ascertain that the ground condition was suitable for construction of a STS system. The depth of conducting a percolation test would depend on the design of individual soakaway system. Generally speaking, a typical soakaway system for Small House development

would be located at a depth of about 1.5m to 2m below ground and occasionally a depth of about 2m to 3m might also be possible.

17. The same Member said that Small Houses built in close proximity to HHW might have adverse environmental impacts on HHW Marine Park. In this regard, the result of previous percolation tests carried out along HHW or at other coastal locations might be a useful reference regarding the soil conditions of the coastal areas. The Secretary said that the coastal areas of Hoi Ha had been designated as “Coastal Protection Area” (“CPA”) which was intended to conserve, protect and retain the natural coastlines and the sensitive coastal natural environment. As the “V” zone boundary had been aligned with the “CPA” zone, very few, if not none, new Small Houses would be built at the coastline of Hoi Ha. Since Small House developments within the “V” zone did not require planning permission, the percolation test results were not subject to scrutiny by the Board.

18. Mr C.W. Tse said that when making a Small House grant application, the applicant was required to submit, among other information, a STS plan certified by an AP to LandsD for approval before occupation. Although the AP was required to certify that the percolation test had been carried out in accordance with ProPECC PN 5/93 under the STS system proposal, no record of individual percolation test result had been kept by the Government. Mr Tse continued to say that in view of the issues raised by some representers on the percolation test, EPD had discussed with LandsD that the AP-certified percolation test results should be submitted to LandsD for approval before the completion of the Small House development, and subject to scrutiny by the concerned government departments. The revised procedure would help guard against potential abuse of the certification system and further reduce the potential adverse environmental impact of Small House developments.

Design and Maintenance of STS System

19. A Member said that there was concern that unduly long connection between a Small House and the associated STS system would cause overflowing or percolation of wastewater outside the STS. This Member asked whether there was any statutory or

administrative control regarding the connection distance between a Small House and the STS system. Mr C.W. Tse replied in a negative. Provided that the STS system was constructed in accordance with the prescribed government standards and requirements, the chance of unintended overflowing or leakage of wastewater should be small.

20. A Member said that in order to maintain the efficiency of treatment, periodic maintenance of the STS system would be necessary to remove the sewage sludge that settled in the septic tank. Since So Lo Pun and Pak Lap were not served by vehicular access, the practicality of regular maintenance of the STS systems in those areas was doubtful. Members noted that the operation and maintenance practices for septic tanks were given in EPD's "Guidance Notes on Discharges from Village Houses". Mr C.W. Tse commented that the frequency of maintenance of a STS system mainly depended on the volume of sewage produced and suspended solids to be removed.

21. Mr C.W. Tse said that a STS system serving a few people living in a Small House might not require frequent maintenance, and the effectiveness and efficiency of the STS system would not be affected. As a contrast, STS systems used in schools and restaurants serving a relatively large number of people, would require regular maintenance to maintain their efficiency. In general, for Small Houses, the maintenance works involved aeration, washing and removal of irreducible solids, which were not very labour-intensive and would not necessarily require vehicular access. Commercial contractors were also available to provide maintenance services. As a matter of fact, STS systems were mainly deployed to serve remote areas without the provision of foul sewers and vehicular access.

Effectiveness of STS System

22. A Member asked whether quantitative assessments had been carried out to assess the effectiveness of the STS system in removing pollutants and the impact of the discharge from the STS system on water quality. Another Member asked whether the STS system was effective in removing inorganic chemicals such as detergents and shampoos discharged from the Small Houses and the visitors' facilities. Mr C.W. Tse said the effectiveness of a STS system was not evaluated through quantitative assessments

as a sewage treatment system designed based on chemical and physical principles. Provided that a STS system was built at a suitable location in accordance with the prescribed standards and requirements, when the sewage passed through the soil, the attenuation effect should be able to offer adequate protection to the concerned water-bodies.

23. Mr C.W. Tse continued to say that STS systems had been effective in safeguarding the water quality of HHW Marine Park. There were a number of existing houses and STS systems in Hoi Ha and the quality of the main water-body of HHW Marine Park was measured as 'excellent' by the Agriculture, Fisheries and Conservation Department (AFCD). This showed that the discharges from the existing Small Houses to the main water-body had not resulted in significant impacts, compared to the carrying capacity of the main water-bodies of the Marine Park. Therefore, if served with properly designed and operated STS systems, there was no evidence that Small Houses in the planned "V" zone would result in insurmountable impacts on the water quality of the HHW Marine Park.

24. A Member said that according to a representer, some of the houses near the coast of HHW were currently vacant, and hence the impact of the existing village houses on the water quality of HHW Marine Park might have been underestimated.

25. In response to the enquiry of Mr K.K. Ling, Director of Planning, Mr C.W. Tse said that it was not uncommon that *E. coli* was found in natural streams and coastal areas due to general human and animal activities. Even in areas already served by public sewerage and sewage treatment facilities such as Victoria Harbour and Tolo Harbour, relatively high levels of *E. coli* were common in the coastal waters. Since *E. coli* could only survive for a short period of time in the marine environment, the crux of the matter was whether the water quality of the main water-bodies had been polluted. Mr Tse said that according to his understanding, AFCD was considering more sample-taking points to enhance the monitoring of the water quality within the Marine Park.

Cumulative Impact

26. A Member said that in designating land for new Small House developments, the cumulative impact of Small House developments in the subject CPEs and the related catchment areas should be considered. For Hoi Ha, cumulative impact might be resulted from other developments upstream at Pak Sha O. Another Member said that taking into account the potential cumulative impact of the Small House developments and given that the “V” zones in Hoi Ha and Pak Lap were located close to the coastal areas, a precautionary approach should be considered in order to minimise the potential adverse environmental impacts.

27. The Chairman asked whether, assuming a significant increase in the number of new Small House developments to say, 400 houses, there would be unacceptable cumulative impacts on the water quality. Mr C.W. Tse said that a significant increase in the number of Small Houses and STS systems would inevitably generate additional environmental impacts, particularly in areas where the density of the existing Small House developments was already high. On whether the impact would be unacceptable, the determining factor would be the absorption capacity of the soil and the attenuation effect. The percolation test was essential to ascertain whether the soil condition of the concerned area could enable the STS system to function properly for effective treatment and disposal of wastewater. For areas where the density of Small Houses was already too high or the soil condition was not right, any proposed STS system would fail the percolation test. If the percolation test results showed that the soil condition could support a new STS system, the associated environmental impacts would not be insurmountable. Mr Tse also said that there were requirements on the location of STS systems. In general, STS was not permitted in the water gathering grounds in order to avoid pollution of potable water. Moreover, STS would not be allowed at locations in close proximity to rivers, streams and coastal areas to avoid possible pollution of the concerned water-bodies. Based on information available so far, he understood that both EPD and AFCD had no objection to the “V” zones on the three draft OZPs.

[Dr W.K. Yau returned to join the meeting at this point.]

Control of Wastewater Discharge

28. Members generally noted that unauthorised wastewater discharge into the stormwater drain system or directly to the streams and sea would be subject to enforcement action by the concerned government departments. Mr C.W. Tse said that the wastewater, including sewage and sullage from toilets and kitchens, generated from the Small Houses should be discharged into a communal foul sewer, or a STS system if a communal foul sewer was not available in the vicinity. Although pollution associated with improper disposal of wastewater could result in prosecution under the Water Pollution Control Ordinance, there were practical difficulties in investigation and enforcement for some cases.

29. Regarding the representers' concern on the discharge from the shower facilities, Mr C.W. Tse said that the wastewater was passed to a sand filtration pond for percolation into the ground. Under normal circumstances, such arrangement was considered acceptable in environmental terms. The content of non-biodegradable materials in the wastewater should be relatively small at the moment. However, if the usage of shower facilities increased, irregularities in the discharge of wastewater might increase correspondingly. As such, the general human activities, e.g. the large number of tourists visiting the CPEs, especially during the weekends, could generate more pollution threats than the Small Houses.

30. A Member said that the recreational and tourist activities including eating, swimming and showering, were major sources of pollution in the CPEs. As the planning intention of the "V" zone was primarily for the provision of Small House developments, consideration should be given to imposing more stringent control on those activities.

31. Another Member said that the idea of restricting the type of users in the marine parks had previously been considered by the Country and Marine Parks Board. However, such idea was not pursued further considering that the marine parks were public assets that should be enjoyed by members of the public. This Member also said that since the water quality of HHW Marine Park was a prime concern and AFCD had been monitoring the water quality and environmental conditions of the marine parks as the management authority, AFCD should assume a role in controlling the pollution sources in the vicinity.

In addition, the water quality readings of HHW Marine Park should be used as the pollution regulating factors. As such, if the water quality of the Marine Park was found worsened, appropriate control measures could be timely taken to minimise further environmental degradation. Other suitable types of sewage treatment facilities instead of the STS system should also be considered.

32. Members generally agreed that the increase in the number of Small Houses would not have a direct bearing on the number of visitors to the CPEs. AFCD, as the Country and Marine Park Authority (CMPA), should be requested to consider improving the visitors' facilities and strengthening enforcement actions against irregularities in wastewater discharge at Hoi Ha in order to minimise the potential adverse environmental impacts on the Marine Park.

[Dr Wilton W.T. Fok left the meeting at this point.]

Need for Assessment in Designating the "V" zones

33. A Member said that some representers and commenters observed that certain areas within the "V" zone of Hoi Ha were wet areas subject to frequent flooding or with relatively high water table. Based on a common sense approach, those wet areas would not be suitable for construction of the STS system. In the absence of detailed information on the geology and ground water conditions of the CPEs, this Member had doubt on the inclusion of those seemingly wet areas in the "V" zones.

34. A Member said that during the preparation of the OZPs, preliminary assessment should be carried out to ascertain whether the proposed "V" zones were suitable for construction of STS systems. This was because if some areas were subsequently found to be unsuitable for construction of STS systems within the "V" zone subsequent to the percolation test, there might be criticisms from the villagers that the land reserved could not be used for Small House developments.

35. Another Member said that the carrying capacity of the environment was a critical factor in considering the extent of development within the CPEs. Not all land

within the “V” zone would be suitable for Small House development. Taking So Lo Pun as an example, since no mature trees were found in the areas previously occupied by terraced fields within the “V” zone, it was possible that those areas had a relatively high water table or porous ground condition and were not suitable for construction of STS systems. The Member also said that the excellent water quality of HHW Marine Park was attributed to the high self-cleansing ability of the existing well-balanced environment. Any additional development might disturb the existing equilibrium and entail adverse impacts on the natural environment. There would also be aspirations from the villagers for provision of infrastructures such as sewers and roads to support the expansion of villages. Since the increase in population and related human activities would likely generate additional adverse impacts on the environment, it would be prudent to conduct a detailed assessment, based on a scientific approach, to examine the carrying capacity of the concerned areas and the suitability of the land zoned “V” for Small House developments with STS systems.

36. Mr C.W. Tse said that some land available within the “V” zones of Hoi Ha and So Lo Pun for new Small House developments was located on the higher grounds away from the lowlands and coastal areas. A proper percolation test could be conducted at the Small House application stage to ascertain whether individual site locations within the “V” zones were suitable for STS systems. Only sites passing the percolation test could support the use of a STS system. The percolation test would be a reliable scientific method to assess the individual site conditions of various locations in the new areas within the “V” zones.

37. Another Member said that while both the environmentalists and the villagers had put forward their own grounds to support their views on the designation of “V” zones, a consistent approach should be adopted by the Board in delineating the “V” zone boundaries in all the CPEs. Under the established practice, the percolation test was an appropriate means to examine the suitability of individual sites for STS systems within the “V” zones on an objective and scientific basis.

[Mr Ivan C.S. Fu left the meeting at this point.]

38. A Member said that land use planning was not an exact science and would inevitably involve judgments and assumptions. Even if a detailed assessment was conducted to examine the suitability of land for Small House developments and STS systems, it was doubtful if its findings could be directly applied to the delineation of the “V” zone boundaries. Although land suitable and unsuitable for STS systems within a proposed “V” zone would be identified upon assessment, it would not be practicable to exclude each individual unsuitable site from the “V” zone. Under such circumstances, the percolation test requirement in the Small House grant application was considered as the most practicable means to determine the suitability of land zoned “V” zone for the construction of STS systems. Under such approach, the actual number of Small Houses that would be built in the “V” zones might be fewer than that estimated by PlanD, and the resultant environmental impact would be less significant. This Member also said that should there be signs showing degradation of water quality in HHW Marine Park, AFCD could raise objection to the Small House development during the departmental circulation stage.

39. Members noted that land use zonings were broad-brush in nature. Whether land falling within a particular land use zone could actually be used for the intended purpose would be subject to other Government requirements. In respect of the suitability of Small House development and associated STS system at a certain location, there was an established control mechanism to examine each case based on its individual merits at the Small House grant application stage. Given that the preparation of OZPs for a number of CPEs was in the pipeline, to carry out detailed assessments on the suitability of “V” zones for Small House developments and STS systems for each OZP would be extremely resource demanding. Moreover, it would be difficult to determine the carrying capacity of an area on a scientific basis.

40. The Secretary said that the boundaries of the “V” zones on the three OZPs had been drawn up having regard to a number of relevant factors. In general, those areas which were considered not suitable for Small House developments had been excluded from the “V” zones during the plan-making process. If the suitability of individual sites for construction of Small Houses and STS systems was to be examined in the planning process, a more restrictive approach had to be adopted at the planning stage under which

any new Small House development and associated STS system should be submitted to the Board for scrutiny. The current practice in designating the “V” zones would have to be revamped, and the Board, instead of LandsD and the concerned government departments, would be responsible for overseeing the acceptability of the construction of STS systems.

41. Another Member said that the concerned government departments including LandsD and EPD were vested with the responsibility to ensure the compliance of any Small House development and STS system with the relevant guidelines and requirements. The current control mechanism was considered adequate to guard against any potential adverse impact on the environment. Since one of the planning intentions of the OZPs was to make provision for future Small House development for the indigenous villagers, the spirit of the Small House policy should be duly respected in the plan-making process. Adopting an over-restrictive approach to confine the “V” zones to the existing village houses was unnecessary.

[Mr Patrick H.T. Lau left the meeting temporarily at this point.]

42. After further discussion, the Chairman summed up Members’ views that planning was about designating suitable land for different land use zones on the statutory plans. For Small House developments within the “V” zones, LandsD, when processing the Small House grant applications, would require the submission of detailed plans and information for consideration by the relevant government departments. On sewage disposal arrangement, the AP of the Small House development should submit the certified STS proposal and percolation test results to the satisfaction of EPD. Sufficient control was already in place to ensure that the Small House development and the STS system would not entail unacceptable environmental impacts on the surroundings. Members also noted that the suitable location for the proposed STS systems would be determined before construction of the Small House developments. Subject to the results of percolation test, the proposed STS systems within the “V” zones might or might not be accepted by the concerned departments. There was no guarantee that all the land within the “V” zones could be used for Small House developments.

[Mr Laurence L.J. Li left the meeting at this point.]

Need for Infrastructural Improvement

43. The Chairman said that some representers and commenters opined that there should be plans to provide or improve the road access, infrastructure and utilities to support the villages and to serve the visitors to the CPEs. There were also views that Village Layout Plans (VLPs) and public works programme should be drawn up to improve the infrastructure and facilities of the CPEs and to prevent the existing villages from polluting the natural environment including the streams and the nearby water-bodies.

44. Members noted that the existing population in the subject areas was low. Relevant works departments would keep in view the need for infrastructure in future subject to resource availability. Flexibility had been provided in the Notes of the OZPs for geotechnical works, local public works and environmental improvement works co-ordinated or implemented by the Government, which were necessary for provision, maintenance, daily operations and emergency repairs of local facilities for the benefit of the public and/or environmental improvement. Members also noted that the preparation of new VLPs for villages covered by existing OZPs would depend on a number of factors such as implementation prospect of the VLPs, manpower and priority of works within PlanD. OZPs with specific land use zonings should be prepared before VLPs could be contemplated.

Planning Control

45. The Chairman said that some representations and comments had requested for the imposition of more stringent planning control, based on the approach adopted in the Tai Long Wan OZP, on the three OZPs. There were also representations and comments which proposed that planning permission should be required for 'Eating Place' and 'Shop and Services' uses in the "V" zones. In addition, some representations and comments argued that, in order to prevent environmentally sensitive land from being disturbed in ecological terms, 'Agricultural Use', 'On-Farm Domestic Structure', 'Barbecue Spot', 'Picnic Area', 'Public Convenience' and 'Tent Camping Ground' should not be allowed or should require planning permission from the Board within the "V", "CA", "CPA", "GB"

and “GB(1)” zones.

The Tai Long Wan Approach

46. At the request of the Chairman, the Secretary briefed Members on the background relating to the Tai Long Wan OZP. She said that the draft Tai Long Wan OZP was first published in 2000 and had been subject to objections from both villagers and green groups. After consideration of the objections, the Board agreed to adopt a restrictive approach in Tai Long Wan taking into account the landscape, scenic, ecological, heritage and archaeological values of the area. Under the planning approach for Tai Long Wan, the size of the “V” zones had been delineated to cover only the existing village settlements, and planning permission from the Board was required for NTEH/Small House and for demolition of or any addition, alteration and/or modification to or redevelopment of an existing building within the “V” zones. Some representers and commenters considered that, in view of the similar characteristics shared by Tai Long Wan and the subject CPEs, the restrictive approach adopted in the Tai Long Wan OZP should be followed. The Secretary said that whether the approach should be adopted for the subject OZPs should be carefully considered, bearing in mind the implications on other CPEs for which OZP preparation work was in progress.

47. A Member said that similar issues regarding the balance between village type development and nature conservation had been discussed and deliberated for the Tai Long Wan OZP. As such, the planning approach adopted in the Tai Long Wan OZP might serve a useful reference for the subject CPEs.

48. Ms Bernadette H.H. Linn said that when making any decision to apply, or otherwise, the restrictive approach for Tai Long Wan to the subject CPEs, the Board should be satisfied that the unique planning background and characteristics of Tai Long Wan warranting the adoption of such an approach were not applicable to the subject CPEs.

49. A Member said that Tai Long Wan and the subject three CPEs shared a common characteristic in that they were coastal areas where distinguished and diverse habitats for flora and fauna, such as the ‘fung shui’ woodlands and secondary woodlands,

could be found. Another Member said that the planning approach for each CPE should be considered based on the circumstances and characteristics of individual areas.

50. Some members noted that there was no government policy to require the “V” zones within CPEs to be confined to the existing village settlements, as in the Tai Long Wan case.

51. Members noted that the planning context and characteristics of Tai Long Wan were different from those of the subject CPEs. Apart from the outstanding natural beauty and unspoiled landscape, there were also well-preserved historic villages and a site of archaeological significance in Tai Long Wan. As it was considered important to conserve both the natural and built environment, a conservation approach was adopted in the Tai Long Wan OZP to preserve the natural environment, unspoiled landscape, historic buildings and the archaeological site in Tai Long Wan. Members agreed that each case should be considered on its own merits.

Notes of the Plan

52. A Member said that the traditional rights of villagers to live in and sustain their villages should be duly respected. The villages were previously vibrant and self-contained communities. Although most of the villagers had subsequently moved out of the villages in So Lo Pun and Pak Lap, the villagers’ rights to return and live in the villages should not be deprived of. The rights of the indigenous villagers to build Small Houses within the “V” zone should be respected.

53. A Member said that whether ‘Eating Place’ and ‘Shop and Services’ uses should be permitted as of right in the “V” zone of the CPEs was doubtful. Proliferation of restaurants and commercial facilities in the villages might attract more visitors to the areas and pose additional burden on the natural environment. Another Member said that given the special landscape and ecological values of the CPEs, a more stringent approach on imposing control on ‘Eating Place’ use within the “V” zones would be required.

54. Ms Bernadette H.H. Linn said that in general Small House developments were

governed by land instruments permitting 'non-industrial' uses, under which restaurants and shop uses were permitted. Nevertheless, if a food business was to be carried out on site, the operator had to apply for a food business licence issued by the Food and Environmental Hygiene Department (FEHD).

55. The Secretary said that 'Eating Place' and 'Shop and Services' uses were Column 2 uses within the "V" zone of the OZPs which required planning permission from the Board. Only those 'Eating Place' and 'Shop and Services' uses located at the ground floor of a NTEH, which were relatively smaller in scale, were permitted as of right.

56. Members noted that NTEH/Small Houses should be permitted as of right within the "V" zone of the CPEs unless under very special circumstances. There was sufficient control in the OZPs that land within "V" zone would be used primarily for Small House development. Members also noted that the provision of eating place and shop and service on the ground floor of a NTEH was intended to serve the needs of the villagers. Apart from imposition of planning control, there were other means such as traffic management to control the number of visitors in the CPEs. Moreover, a licence was required to be obtained from FEHD for carrying out a food business. Licence would only be issued to a food business if the prescribed hygiene standards, building structure, fire safety, lease conditions and planning restrictions were confirmed.

[Mr Frankie W.P. Chou left the meeting temporarily at this point.]

57. The Vice-chairman said that agricultural use by nature would not conflict with nature conservation. Farming practices were commonly found in conservation areas and even country parks. It was not necessary to impose more stringent planning control on agricultural use. This view was shared by another Member.

58. A Member said that agricultural activities should be encouraged in the villages in order to sustain the living of villagers and to respect their traditional rights.

59. Members considered that 'Agricultural Use' was permitted in all zones to respect the lease right under the Block Government Lease. It was also a Column 1 use

within the “V” and “CA” zones on the Tai Long Wan OZP. Moreover, AFCD had reservation on moving ‘Agricultural Use’ and ‘On-Farm Domestic Structure’ to Column 2 as it would impose unnecessary restrictions on agriculture and discourage agricultural development in the long run. Planning permission from the Board was required for works relating to the diversion of streams, filling of land/pond or excavation of land, including that to effect a change of use to the permitted uses, which might cause adverse impacts on the natural environment.

60. Member considered that, as advised by AFCD, ‘Barbecue Spot’, ‘Picnic Area’, ‘Public Convenience’ and ‘Tent Camping Ground’ might not have significant adverse impacts on sensitive habitats. There was no strong justification for imposing more stringent control on those uses in the concerned land use zones.

Policies for Planning of CPEs

61. The Chairman said that some representers and commenters considered that the CPE policy objective was to provide better protection of the CPEs than currently existed, while the Government had a duty to implement the International Convention on Biological Diversity (ICBD). However, they were of the view that the objectives of the CPE policy and the ICBD had not been addressed in the draft OZPs.

62. A Member said that in order to better protect the CPEs, priority should be given to conserving the natural environment of the areas.

63. Another Member said that taking into account the unique scenic, landscape and ecological qualities of the CPEs, a cautious approach should be adopted in the consideration of the OZPs.

64. Members noted that there was no such government policy on CPEs. The so-called ‘CPE Policy’ was only administrative measures to either include the CPEs into country parks, or determine their proper uses through statutory planning to meet the conservation and social development needs. Under the New Nature Conservation Policy, statutory town planning had been recognised as one of the tools for protecting sites of high

ecological importance. OZPs should be formulated for those CPEs having regard to the actual situation of the CPEs, including such factors as their conservation values, landscape and aesthetic values, geographical locations, existing scale of human settlements and immediate development pressure to meet conservation and social development needs.

65. A Member said that certain principles in the ICBD were applicable to the preparation of OZPs for the CPEs. In particular, Article 8(E) advocated to ‘promote environmentally sound and sustainable development in areas adjacent to protected areas with a view to furthering protection of these areas’. Since the CPEs were located close to the country parks which were protected areas, the HKSAR as a signatory of the ICBD through China was obliged to observe such principles where appropriate.

66. Members noted that the general planning intention of the OZPs was to conserve the natural landscape and conservation value, to protect its natural and rural character, and to allow for Small House developments by the indigenous villagers of the existing recognised villages. In drawing up the OZPs and their land use proposals, due consideration had been given to the ecological importance of the Hoi Ha, So Lo Pun and Pak Lap areas in the preparation of the OZPs with a view to striking a proper balance between nature conservation and development needs. Attention had been given to protect the ecological and landscape significance of the areas having regard to the wider natural system of the surrounding areas including the country parks. Conservation zones, including “GB”, “CA” and “CPA”, under which there was a general presumption against development, had been designated to cover areas having ecological and landscape significance that warranted protection under the statutory planning framework.

‘Destroy First, Build Later’ Approach

67. Some representers alleged that illegal tree felling and suspected unauthorised site formation and drainage works were previously found in So Lo Pun and Pak Lap respectively. The ‘destroy first, build later’ approach should not be rewarded with development zoning.

68. A Member said that in response to the arguments put forward by the

representers and commenters, the “V” zoning of land previously subject to suspected unauthorised site formation works in Pak Lap should be reviewed. Members noted that the concerned area in Pak Lap was fallow agricultural land overgrown with grass and shrubs. The zoning of the land would be considered upon deliberation on individual OZPs.

69. After further discussion, the Chairman concluded and Members agreed that the Board was determined to conserve the rural and natural environment and would not tolerate any deliberate action to destroy the rural and natural environment in the hope that the Board would give sympathetic consideration to subsequent development on the site concerned. To ensure that activities within the “AGR”, “GB” and “CA” zones would not result in adverse environmental impact, the Notes of the OZPs had stipulated that any diversion of stream, and filling of land/pond were subject to the approval by the Board.

Judicial Review for Tai Long Sai Wan Case

70. Members noted that a few representers and commenters said that the judgment of the judicial review (JR) relating to Tai Long Sai Wan should be taken into account in the preparation of the OZPs. However, Members considered that the planning context and background of Tai Long Sai Wan should be distinguished from the other CPEs. The JR judgment should not be directly applicable to the preparation of the three OZPs as each case should be considered on its merits.

Contravention of Basic Law

71. As regards the allegation of some representers that designating the private lots for conservation zonings had contravened the Basic Law (BL), Members noted that similar arguments had been raised in the context of other rural OZPs. According to the legal advice previously obtained, insofar as the Small House Policy had already been qualified by the system of OZPs before the Basic Law came into force on 1.7.1997, subject it to planning controls imposed by the draft OZPs would not be inconsistent with BL Article 40. Also, the planning controls imposed by the draft OZPs would not involve any formal expropriation of property, nor would they leave the land concerned without any meaningful

alternative use. As such, they would not constitute ‘deprivation of property’ for the purpose of BL Article 105 requiring payment of compensation.

Inclusion of CPEs into Country Parks or Marine Parks

72. The Chairman said that some representers were of the view that land under private ownership should not be included in the country parks, while others proposed that the CPEs should be incorporated into the country parks or marine parks.

73. A Member enquired whether a request should be made to the Country and Marine Parks Board to incorporate Hoi Ha, So Lo Pun and Pak Lap into the country parks. The Chairman remarked that in the 2010-11 Policy Address, the Government undertook to either include the 54 CPEs into country parks, or determine their proper uses through statutory planning. Subsequently, the Government was directed by the Chief Executive in Council to prepare statutory plans to cover about half of the CPEs, including the Hoi Ha, So Lo Pun and Pak Lap areas under the provisions of the Town Planning Ordinance. The directive should be followed by the Board.

74. The Secretary supplemented that preparation of statutory plans and designation of country parks were under two separate regimes. Covering a CPE by a statutory plan would not preclude the inclusion of that area in the country park in the future. Members noted that the designation of country parks and marine parks was under the jurisdiction of the CMPA governed by the Country Parks Ordinance (Cap. 208) and the Marine Parks Ordinance (Cap. 476), which was outside the purview of the Board. According to AFCD, whether a site was suitable for designation as a country park should be assessed against the established principles and criteria, which included conservation value, landscape and aesthetic value, recreation potential, size, proximity to existing country parks, land status and existing land use.

75. The Chairman said that the general issues common to the three OZPs had been deliberated. He suggested that the grounds and proposals of representations and comments in respect of the individual OZPs be discussed in a separate session of deliberation. Members agreed.

76. The meeting was adjourned at 5:10 p.m.